

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

OCT 16 2000

DAVID J. MALAND, CLERK

BY
DEPUTY

~~~~~

concerning whether the East Texas Medical Center entities are incorporated in Texas or whether other Third-Party Defendants are insurance companies, health plans, or governmental entities doing business in the State of Texas or whom their agents for service might be.

## **II.**

The East Texas Medical Center entities' characterizations or restatement of Plaintiff's petition against the Defendants/Third-Party Plaintiffs require no response. The respective pleadings of the East Texas Medical Center entities and the Defendants/Third-Party Plaintiffs speak for themselves.

## **III.**

First Health denies that it has made payments for medical care provided to the patients of the East Texas Medical Center entities or that it has received refunds due to credit balances. First Health denies that it has a contract with the East Texas Medical Center entities which concerns the reimbursement of medical payments, refunds for medical-expense recoveries by insureds or health plan participants from third parties, or discounts for the provision of medical services as alleged by Plaintiffs. First Health denies that it has requested, required, demanded and/or accepted refund payments from the East Texas Medical Center entities. First Health is without sufficient information to respond to the remaining allegations of Paragraph III of the Third-Party Petition and, therefore, those allegations are denied.

## **IV.**

First Health denies that it is liable for any judgment or damages obtained by the Plaintiff/putative class against the Defendants/Third-Party Plaintiffs under the theories of

indemnification or indemnity (or any theory of liability) for allegedly processing erroneous refunds. The East Texas Medical Center entities' characterizations of their responsive pleadings or of Plaintiff's allegations require no response.

**V.**

First Health denies that it has a contract or agreement with the East Texas Medical Center entities which concerns the terms or conditions of refunds due to First Health for credit balances. The remaining allegations of Paragraph V of Plaintiff's Third-Party Petition are legal conclusions and require no response.

**VI.**

First Health denies that the Defendants/Third-Party Plaintiffs are entitled to the relief requested in Paragraph VI.

**VII.**

To the extent that any allegation contained in Defendants/Third-Party Plaintiffs' Petition required a response which First Health has not admitted, denied, or otherwise responded to, any such allegation is hereby denied.

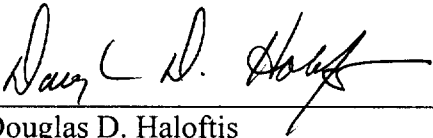
**VIII.**

Accordingly, First Health requests that:

- Defendants/Third-Party Plaintiffs take nothing by their action;
- A judgment of dismissal be entered in favor of First Health;
- First Health be awarded its attorneys' fees and costs incurred in defending this action; and,

- First Health be awarded such other just and proper relief.

Respectfully submitted,

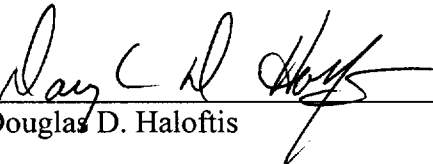
By:   
Douglas D. Haloftis  
Texas State Bar No. 08804400  
Lara Simonian Jitlal  
Texas State Bar No. 2400744  
Gardere & Wynne, L.L.P.  
3000 Thanksgiving Tower  
1601 Elm Street  
Dallas, TX 75201  
Telephone: (214) 999-4670  
Facsimile: (214) 999-3670

**Attorneys for Defendant  
First Health Life & Health  
Insurance Company**

**Certificate of Service**

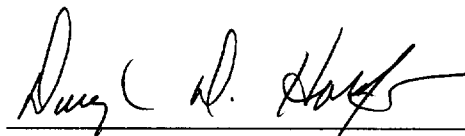
On October 13, 2000, a true and correct copy of the foregoing was served by certified mail, return receipt requested upon the following:

Michael E. Jones  
Potter, Minton, Roberts, Davis & Jones, P.C.  
P.O. Box 359  
Tyler, TX 75710  
Telephone: (903) 597-8311  
Facsimile: (903) 593-0846

  
Douglas D. Haloftis

**Certificate of Service**

On October 13, 2000, a true and correct copy of the foregoing was served by United States mail upon the following individuals on the attached Service List:

  
\_\_\_\_\_  
Douglas D. Haloftis

**FIRST HEALTH/JACKSON  
SERVICE LIST**

Demitri Zgourides  
Kathy Strahan  
Andrews & Kurth, L.L.P.  
600 Travis Street  
STE 4200  
Houston, Texas 77002

Charles A. Clark  
Clark Lea Rutter & Logson  
604 Woldert  
Tyler, Texas 75702

Babette Ceccotti  
Cohen Weiss & Simon  
330 W. 42nd Street  
New York, New York 10036-6926

Peter Roan  
Conaviesky & Rank  
633 West Fifth Street  
STE 3500  
Los Angeles, California 90071

John Scully  
Cooper & Scully, P.C.  
900 Jackson Street  
STE 100/Founders Square  
Dallas, Texas 75202

Will D. Davis  
200 Perry Brooks Building  
Austin, Texas 78701

Judith Schenning  
Fulbright & Jaworski, L.L.P.  
2200 Ross Avenue  
STE 2800  
Dallas, Texas 75201-2784

Joseph Russo  
Scott Daniel  
Greer Herz & Adams, L.L.P.  
18th Floor

One Moody Plaza  
Galveston, Texas 77550-7998

Robert Harris  
The Law Offices of Robert L. Harris  
1919 S. Shiloh  
STE 200/First State Bank of Texas  
Garland, Texas 75042

Jim Johnson  
The Johnson Law Firm  
8333 Douglas Avenue  
STE 900  
Dallas, Texas 75225

Phillip Stano  
Jorden Burt Boros Cicchitti  
1025 Thomas Jefferson Street, N.W.  
STE 400 E  
Washington, D.C. 20007

Chuck Kreutz  
Buddy Steele  
Locke Liddell & Sapp, L.L.P.  
100 Congress Avenue  
STE 300  
Austin, Texas 78701-4042

Michael Collins  
Locke Liddell & Sapp, L.L.P.  
2200 Ross Avenue  
STE 2200  
Dallas, Texas 75201

George C. Haratsis  
McDonald Sanders  
777 Main Street, P.C.  
STE 1300  
Fort Worth, Texas 76102-5305

William S. Hommel, Jr.  
McGee Hommel & Starr  
3304 S. Broadway

STE 202  
Oak Plaza Office Park  
Tyler, Texas 75701

David Martin  
Malesovas Martin & Tekell, L.L.P.  
425 Austin Avenue 10th Floor  
P.O. Box 1709  
Waco, TX 76703-1709

John Seiger  
New Era Life Ins. Co.  
P.O. Box 4884  
Houston, Texas 77210-4884

James L. Jackson, Jr.  
Law Offices of Pat O'Neill  
I 10 West 7th Street  
STE 1100  
Fort Worth, Texas 76102

Mike Crawford  
Tracy Crawford  
Deron Dacus  
John W. Ferguson, Jr.  
Paul Gilliam  
Ramey & Flock  
P.O. Box 629  
Tyler, Texas 75710

D. Brent Lemon  
Shaw & Lemon  
2723 Fairmount  
Dallas, Texas 75201

Wayne Mason  
Strasburger & Price, L.L.P.  
901 Main Street  
STE 4300  
Dallas, Texas 75202

Sandy McCorquodale  
Vial Hamilton Koch & Knox, L.L.P.  
1717 Main Street  
STE 4400  
Dallas, Texas 75201-7388

Russell Yager  
Vinson & Elkins, L.L.P.  
2001 Ross Avenue  
3700 Trammell Crow Center  
Dallas, Texas 75201-2975

E. Stratton Horres, Jr.  
Wilson Elser Moskowitz Edelman &  
Dicker, L.L.P.  
1201 Elm Street  
5000 Renaissance Tower  
Dallas, Texas 75270

Doug K. Butler  
Andrew J. Jabinsky  
Tim A. Daniels  
Bill E. Davidoff  
Denis M. Lynch  
Figari Davenport & Graves, L.L.P.  
901 Main Street, Suite 4800  
Dallas, TX 75202

John Recci  
John Hancock  
P.O. Box 111  
Boston, MA 02117